

OFFICIALAtty. Dkt. No. 072827-1002
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DEC 17 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Van Wagenen et al.
Title: CALCIUM RECEPTOR-
ACTIVE MOLECULES
Appl. No.: 09/579,564
Filing Date: 05/26/2000
Examiner: D. Jones
Art Unit: 1614

CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below. <u>LINE GAUTHIER</u> (Printed Name) <u>[Signature]</u> (Signature) <u>December 17, 2003</u> (Date of Deposit)

#14
JRP
2/10/04**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. § 1.181(b)**

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The present case is legally abandoned because a reply was never made to an Office Action mailed by the Patent Office on March 19, 2003. However, the Office Action was never received by Applicant's attorney at the address of record.

Attorney San Pietro received a telephone call from Examiner Jones on or around October 30, 2003 requesting to know if the Applicant planned to abandon the case. The attorney reviewed the case file and later informed the Examiner that more than 6 months had passed since the Examiner stated he had mailed an Office Action, and that no reply had been made because the Office Action was never received at the address of record. The attorney notified the Examiner that the Applicant did not intend to abandon the case, and requested that the Office Action be faxed to him. A facsimile copy of the Office Action was received by Applicant's attorney on or around the following day.

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The Office Action apparently was inadvertently mailed to the previous address of record, even though a Change of Correspondence Address and a separate Power of Attorney document also requesting an address change (copies attached as Appendix A) was mailed to the PTO well before dispatch of the Office Action by the PTO, i.e., on April 20, 2001. These documents directed that correspondence be sent to the present address of record.

The present address of record is repeated below:

Foley & Lardner
402 West Broadway, Suite 2300
San Diego, CA 92101-3542

Under the reasoning of *Delgar*, the Office may consider a petition to withdraw the holding of abandonment and, if adequately supported, should grant the petition and re-mail the Office Action. *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971). MPEP 711.03(c)(II).

Also attached are a copy of the Office Action supplied through the Examiner's courtesy, showing it was mailed to an incorrect address (Appendix B), and a copy of the relevant docket record of Applicant's attorney, illustrating that the Office Action mailed March 19, 2003 was not recorded on the docket record (Appendix C).

In view of the above evidence, Applicant hereby petitions for withdrawal of the holding of abandonment and requests the Office Action be remailed to the correct address of record and that Applicant given an opportunity to respond.

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No fee is believed due with this petition per 37 CFR 181 (d), but the Commissioner is hereby authorized to charge any fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Respectfully submitted,

Date Dec. 17, 2003By Richard San Pietro

FOLEY & LARDNER

Customer Number: 33588

Telephone: (858) 847-6700

Facsimile: (858) 792-6773

Richard San Pietro
Attorney for Applicant
Registration No. 45,071

Patent Record Sheet

Docket ID	072827-1002	Other Party	<input type="checkbox"/>
Alternative ID	214/101CON, N-114CON	File Reference	
Applicant/Patentees	NPS Pharmaceuticals, Inc.	Operating Group	NPS Pharmaceuticals, Inc.
Cost Centres	Irene Betke	Attorneys	SanPietro Richard M., Warburg Richard J.
Inventors	Van Wagensen Bradford C, Balandrin Manuel F, Delmar Eric G, Nemeth Edward F	Office	San Diego
Country	United States of America	Prosecuting/Admin Agent	
Short Title	CALCIUM RECEPTOR-ACTIVE MOLECULES	Representative Agent	
Convention	Priority	Tax Receiver / Patent Office	Paid By Client
Origin		Application No	09/579564
Type	Patent	Application Date	26-May-2000
Sub Type	Continuation	Grant No	
Status	Pending	Grant Date	
Sub Status		Independent Claims	0
		Number of Dependent Claims	0
		Number of Multiple Dependent Claims	0

Licence of Right ☐Small Entity ☐

File Status

Annuity Instructions

Claimed Priorities & Parent Records

Relation	Docket ID	Date	No	Primary
Base Continuation	072827-1001	6/7/1995	08/484159	<input type="checkbox"/>

Long Title

Abstract Summary

Memo

International Classes

National Classes

Keywords

Products

Practice Group

Prior Art

Literature

Patents/Inventions

Related Cases

Diary

Docketed	Action / Event	Recorded No	Reminder	Due	Done/Record	Resp Party
04-Nov-2001	First Filed Date				23-Aug-1991	

Printed : 15 Dec 2003 , 11:19:53

Dennemeyer IAMS

Page 1 / 2

Patent Record Sheet

03-Nov-2001	Application Date	09/579564	26-May-2000
03-Nov-2001	INFORMATION DISCLOSURE STATEMENT		26-Aug-2000
13-Mar-2002	3-Mo Office Action DTD		08-Feb-2002
14-May-2003	Formal Drawings Filed		07-May-2003
13-Mar-2002	Response Due	08-May-2002	06-May-2002
	DD=8/6/02; NONFINAL OA DTD 2/6/02 RECD FROM BROBECK 3/13/02; RPTD TO CLIENT 3/15/02; response file 5/6/2		
13-Mar-2002	Response / 1st Extension Due	06-Jun-2002	06-May-2002
13-Mar-2002	Response / 2nd Extension Due	06-Jul-2002	06-May-2002
13-Mar-2002	Response / 3rd Extension Due - FINAL	08-Aug-2002	06-May-2002
03-Sep-2002	Response Due	19-Nov-2002	19-Nov-2002
	DD=2/19/03; NONFINAL DTD 8/19/02; RSP EMAILED DRAFT TO CLIENT 11/15/02; AWAIT INSTR		
03-Dec-2002	Response / 1st Extension Due	19-Dec-2002	20-Nov-2002
	DD=2/19/03; NONFINAL DTD 8/19/02; RSP EMAILED DRAFT TO CLIENT 11/15/02; FILED 11/20/02		
26-Aug-2003	Possible IDS Due in Counterpart Application	25-Sep-2003	26-Aug-2003
	Created automatically based on receipt of Reference Materials dated 8-26 on 072827-1902.		
30-Oct-2003	Possible IDS Due in Counterpart Application	29-Nov-2003	21-Nov-2003
	Created automatically based on receipt of Reference Materials dated 10/30/03 on 072827-0406.		

Additional Fields

Assigned
Equivalent
Family ID

0
INV-38573

Date created 25-Jan-2001

Created by HMSYSTEM

Date Amended 21-Nov-2003

Updated by KMACNEIL

copy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Van Wagenen et al.**

Group Art Unit: 1614

Serial No.: 09/579,564

Examiner: To Be Assigned

Filed: May 26, 2000

Attorney Docket No.:

F&L No.: 072827-1002

(formerly Brobeck: 030591.0009)

For: **CALCIUM RECEPTOR-ACTIVE MOLECULES**

POWER OF ATTORNEY

Commissioner for Patents
Washington, D.C. 20231

Sir:

The undersigned assignee in the above-referenced application hereby revokes all previous powers of attorney from Lyon & Lyon LLP and Brobeck, Phleger and Harrison in connection with this application.

The assignee hereby appoints as his attorneys, with full power of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Stephen A. Bent, Reg. No. 29,768; Richard J. Warburg, Reg. No. 32,327; Michael A. Whittaker, Reg. No. 46,230 and Wesley B. Ames, Reg. No. 40,893 all of Foley & Lardner, 402 West Broadway, Suite 2300, San Diego, California 92101-3542, Telephone no.: (619) 234-6655 and Facsimile no.: (619) 234-3510.

Please direct all communications relative to this application to:

Michael A. Whittaker
Foley & Lardner
402 West Broadway, Suite 2300

CERTIFICATE OF MAILING
(37 C.F.R. § 1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

EL 728293175 US
Express Mail Label No.

April 20, 2001
Date of Deposit

Irene Grimes Betke

Name of Person Mailing Paper


Signature of Person Mailing Paper

DEC. 17. 2003 4:01PM

858 792-6773 FOLEY AND LARDNER

NO. 6657 P. 8

San Diego, California 92101-3542

Please direct all telephone communications to Michael A. Whittaker at (619) 230-6532.

Respectfully submitted,
NPS Pharmaceuticals

By



James U. Jensen, Vice President
Corporate Development & Legal Affairs

Foley & Lardner
402 West Broadway, Suite 2300
San Diego, California 92101-3542
Telephone no.: (619) 234-6655
Facsimile no.: (619) 234-3510

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CENTRAL FAX CENTER****DEC 17 2003****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re the Application of: **Van Wagenen et al.**

Group Art Unit: 1614

Serial No.: 09/579,564

Examiner: To Be Assigned

Filed: May 26, 2000

Attorney Docket No.:

F&L No.: 072827-1002

(formerly Brobeck: 030591.0009)

For: **CALCIUM RECEPTOR-ACTIVE MOLECULES****CHANGE OF CORRESPONDENCE ADDRESS
AND ATTORNEY DOCKET NUMBER**Commissioner for Patents
Washington, D.C. 20231

Sir:

Effective immediately, please change the Correspondence Address for the above-referenced application. Please direct all communications relative to this application to:

Michael A. Whittaker
Foley & Lardner
402 West Broadway, Suite 2300
San Diego, California 92101-3542

Please direct all telephone communications to Michael A. Whittaker at (619) 230-6532.

**CERTIFICATE OF MAILING
(37 C.F.R. § 1.10)**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

EL 728293175 US
Express Mail Label No.April 20, 2001
Date of Deposit

Irene Grimes Betke

Name of Person Mailing Paper

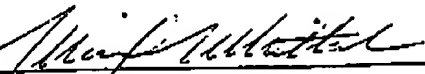
Signature of Person Mailing Paper

Further, please change the Attorney Docket No. from 030591.0009 to Foley & Lardner

Attorney Docket No.: 072827-1002.

Respectfully submitted,
Foley & Lardner

April 20, 2001

By 
Michael A. Whittaker
Registration No.: 46,230

Foley & Lardner
402 West Broadway, Suite 2300
San Diego, California 92101-3542
Telephone no.: (619) 234-6655
Facsimile no.: (619) 234-3510